

91ST CONGRESS }
1st Session }

HOUSE OF REPRESENTATIVES

REPORT
No. 91-534

AMENDING THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964, AS AMENDED, WITH RESPECT TO THE SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES BY CIVILIAN OFFICERS AND EMPLOYEES FOR DAMAGE TO, OR LOSS OF, PERSONAL PROPERTY INCIDENT TO THEIR SERVICE.

SEPTEMBER 29, 1969.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of New York, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 13696]

The Committee on the Judiciary, to whom was referred the bill (H.R. 13696) to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Pages 1 and 2, strike all of section 2.

PURPOSE

The purpose of the proposed legislation, as amended, is to amend section 3(b)(1) of the Military Personnel and Civilian Employees Claims Act of 1964, as amended, by increasing the authority of civilian agencies to pay their employees for personal property losses suffered incident to their service from \$6,500 to \$10,000. The amendment would raise the limit for the payment of such losses by the civilian departments and agencies to the same \$10,000 limitation presently applicable to the Department of Defense, the military departments, and the Coast Guard.

STATEMENT

The bill H.R. 13696 was introduced in accordance with the recommendations of an executive communication from the Department of State which recommends its enactment.

The Military Personnel and Civilian Employees Claims Act originated as a bill before this committee. When first enacted on August 31, 1964, the law provided for a limitation of \$6,500 for the payment of personal property losses by military personnel and civilians. On the basis of demonstrated needs of military personnel, the law was amended on September 15, 1965, to increase the limitation for the military departments and the Coast Guard to \$10,000. The communication from the Department of State has pointed out that a similar need has been established as a result of the experience of the civilian departments and agencies in administering this law. This fact has become increasingly apparent to the committee because of information and inquiries made to it relating to the limitation applicable to the civilian departments and agencies. The committee therefore agrees that the amendment recommended by the State Department should be made in order to provide the same authority to all departments and agencies of the Government. The State Department in recommending this legislation referred to the history of this type of claims statute. It was pointed out that the legislative history of payment of employee claims dates back to April 9, 1816. Prior to 1964 under the Military Personnel Claims Act, the Department of Defense, the military departments, and the Coast Guard were the only agencies with authority to pay personnel claims. The Military Personnel and Civilian Employees' Claims Act of 1964 extended the coverage of claims statutes to civilian officers and employees of all Government agencies, subject to the same \$6,500 limitation previously in existence for the military agencies.

The 1965 amendment to the Military Personnel and Civilian Employees Claims Act of 1964 (79 Stat. 789) increased the claims settlement authority of the Department of Defense, the military departments, and the Coast Guard to \$10,000 but retained the \$6,500 limitation for the civilian agencies. The increase in authority for the military departments and not the civilian agencies was due to the short history of the exercise of the claims authority by the civilian agencies and it was felt that any question of increase of existing authority should be deferred until the various agencies had developed procedures and had a longer period of experience in administration of this claims settling authority (H. Rept. 382, S. Rept. 655, 89th Cong., first sess.).

The committee agrees that the justification submitted in support of the 1965 amendment is equally applicable to Government agencies other than the military departments and the Coast Guard. The monetary limitation of \$6,500 is unrealistic and unduly restrictive in terms of the present cost of household goods and personal effects should a total or near total loss be incurred by an employee. Such losses impose a great hardship on claimants who are victims of catastrophic losses. Further, this inequity has led to an increase of private relief legislation. The State Department stated that only a small percentage of the total number of claims which arise involve circum-

stances causing total loss of personal property, and the information supplied to the committee over the years has demonstrated that this in fact has been the experience of the military services in connection with this type of claim.

The civilian agencies have now had claims settlement authority for over 4 years. Within the Department of State the implementing program, administering the claims authority jointly with the Agency for International Development (AID) and the U.S. Information Agency (USIA), has been operational for over 3 years. The joint regulations promulgated by State, AID, and USIA are in accordance with the statements made in House Report 460 of the 88th Congress that the experience of the military departments would serve to establish guidelines and standards. The provisions of the State Department regulation are similar to those of the military departments; the uniform depreciation allowance list developed by the military departments as a guide to adjudicating claims is used by the Department; and the policy set by the military departments as to maximum amounts allowable on categories of items such as photographic equipment, paintings, silverware, and major appliances has also been adopted by the Department.

From the August 31, 1964 effective date of the Military Personnel and Civilian Employees Claims Act of 1964 to December 31, 1968, the joint State/AID/USIA program settled some 1,230 claims in an amount slightly in excess of \$800,000. Although most claims are settled for less than \$1,000 often for only a few hundred dollars, a small percentage of claimants have not received full reimbursement for their losses since they exceeded the \$6,500 limitation. Only 18 claims have been determined to be payable in excess of \$6,500 but for the statutory monetary limitation. One of the 18 claimants has received total reimbursement of \$10,000 through private relief legislation. This was a private bill considered by this committee for the relief of one individual, Slaton C. Blackiston, Jr. It was enacted as Private Law 90-348 of the 90th Congress. In the report which accompanied that private bill, House Report 429 of the 90th Congress, first session, specifically noted that the \$6,500 limitation was fixed in the law because experience had demonstrated that the greater percentage of losses would be less than that amount. The relief provided in the private law was to pay the individual the difference between \$6,500 and \$10,000.

The bill as introduced would have provided authority for a retroactive consideration of claims settled since the enactment of the 1964 law where payment for more than \$6,500 was denied in losses for more than that amount solely because of the limitations in law. The committee recommends an amendment striking this authority because it appears that it would relate to a relatively small number of cases.

The Department of State has indicated that losses in excess of \$6,500 have resulted primarily from the catastrophic type loss involving total loss or damage to the employee's personal effects. Most have resulted from hostile activities or abandonment resulting from emergency evacuation in the Middle East, Nigeria, and the Congo within the past 2 years. A few of these total losses occurred during shipment of household effects as a result of vessel wreckage or other severe transportation hazard.

These claims for substantial losses, as is also true with most claims processed, stem from losses incurred in overseas areas or in conjunction with the movement or storage of personal effects authorized at Government expense for service-directed assignments to, from, or between overseas posts of duty.

The purpose of the Military Personnel and Civilian Employees Claims Act of 1964 was to extend to other agencies of the Government the authority possessed by the military departments to settle employee claims for loss or damage of personal property when the loss or damage is incident to their Government service. The need for such legislation was clearly recognized. The proposed legislation seeks to provide uniformity of the claims authority among the Government agencies. The committee agrees with the observation of the State Department that it must be recognized that while in many cases distinctions will exist between agencies in claims settlement as a result of functions, conditions of service and other factors, uniformity in the basic legislative authority appears most desirable. In House Report 460 of the 88th Congress, which accompanied the bill H.R. 6910, which was enacted as the Military Personnel and Civilian Employees Claims Act of 1964, the committee suggested that guidelines and standards be established to provide for such uniformity. As is noted by the State Department, the policies prescribed by the President under section 3(b)(1) of the Military Personnel and Civilian Employees Claims Act of 1964, as amended, could resolve procedural and administrative differences among agencies.

The additional cost to the United States, if this proposal is enacted, cannot be determined with any degree of accuracy because of the unpredictability of worldwide incidents that cause substantial losses of employee's personal property. State Department experience has been similar to that of the military services in that only a small percentage of claims have exceeded the \$6,500 limitation. Based on this previous experience, it can be expected that an increase in the statutory limitation from \$6,500 to \$10,000 would provide full reimbursement to approximately 70 percent of those claimants who incurred losses in excess of \$6,500.

On the basis of the facts outlined in the report and in the communication and explanation sent to the Congress by the State Department, it is recommended that the bill, as amended, be favorably considered.

The executive communication is as follows:

DEPARTMENT OF STATE,
Washington, D.C., August 21, 1969.

HON. JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Enclosed is a bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service.

The bill would (1) increase the present authority of civilian agencies for the settlement of claims of their employees for personal property losses incident to their service, from \$6,500 to \$10,000, and (2) permit

reconsideration, retroactive to August 31, 1964, of any such claim heretofore settled and paid in the amount of \$6,500 solely because that was the maximum amount authorized under existing law.

The justification for increasing the present \$6,500 ceiling to \$10,000 is to permit expeditious settlement of claims up to \$10,000 in cases of catastrophic type losses of personal possessions, such as total loss, suffered as a result of Government service. Under today's prices it is not unreasonable for an employee's personal possessions to be worth at least \$10,000. The bill would relieve the unusual hardship suffered by employees who incur losses of this amount. It would also reduce the number of cases where relief is sought through private bills.

The military agencies were given authority to settle claims of their uninformed personnel and civilian employees up to \$10,000 in 1965. This legislation would merely extend the same authority to civilian agencies. A detailed explanation of the proposed legislation is enclosed.

The Department has been informed by the Bureau of the Budget that there is no objection to the presentation of this draft legislation to the Congress for its consideration.

Sincerely yours,

H. G. TORBERT, Jr.,

Acting Assistant Secretary for Congressional Relations.

Enclosures:

Draft bill and explanation.

A BILL To amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended (78 Stat. 767 as amended by 79 Stat. 789), is amended by striking out "\$6,500" and inserting in place thereof "\$10,000".

SEC. 2. Section 1 of this Act is effective August 31, 1964, for the purpose of reconsideration of settled claims as provided in this section. Notwithstanding section 4 of the Military Personnel and Civilian Employees' Claims Act of 1964, or any other provision of law, a claim theretofore settled in the amount of \$6,500 solely by reason of the maximum limitation established by section 3(b) of the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, may, upon written request of the claimant made within one year from the date of enactment of this Act, be reconsidered and settled under the amendment contained in section 1 of this Act.

EXPLANATION

Purpose

The purpose of the proposed legislation is to amend the Military Personnel and Civilian Employees' Claims Act of 1964 as amended to (1) increase the present authority for the settlement of claims for personnel of agencies, other than the Department of Defense, the military departments, and Coast Guard, for personal property losses incident to their service, from \$6,500 to \$10,000, and (2) permit recon-

sideration, retroactive to August 31, 1964, of any claim heretofore settled and paid in the amount of \$6,500 solely because that was the maximum amount authorized under existing law.

History

Although the legislative history of payment of employee claims dates back to April 9, 1816, with enactment of the Military Personnel Claims Act, the Department of Defense, the military departments, and the Coast Guard were the only agencies with authority to pay personnel claims prior to 1964. The Military Personnel and Civilian Employees' Claims Act of 1964 extended the coverage of claims statutes to civilian officers and employees of all Government agencies, subject to the same \$6,500 limitation previously in existence for the military agencies.

The 1965 amendment to the Military Personnel and Civilian Employees' Claims Act of 1964 (79 Stat. 789) increased the claims settlement authority of the Department of Defense, the military departments, and the Coast Guard to \$10,000 but retained the \$6,500 limitation for the civilian agencies. The increase in authority for the military departments and not the civilian agencies was due to the short history of the exercise of the claims authority by the civilian agencies and it was felt that any question of increase of existing authority should be deferred until the various agencies had developed procedures and have had a longer period of experience in administration of this claims settling authority (H. Rept. 382, S. Rept. 655, 89th Cong. first sess.).

Justification

The justification submitted in support of the 1965 amendment is equally applicable to Government agencies other than the military departments and the Coast Guard. The monetary limitation of \$6,500 is unrealistic and unduly restrictive in terms of the present cost of household goods and personal effects reasonably in an employee's possession should a total or near total loss be incurred, imposes a great hardship on certain claimants who are victims of catastrophic losses, and leads to an increase of private relief legislation. Only a small percentage of the total number of claims which arise involve circumstances causing total loss of personal property.

The civilian agencies have now had claims settlement authority for over 4 years. Within the Department of State the implementing program, administering the claims authority jointly with the Agency for International Development (AID) and the U.S. Information Agency (USIA), has been operational for over 3 years. The joint regulations promulgated by State, AID, and USIA are in accordance with the statements made in House Report 460 of the 88th Congress that the experience of the military departments would serve to establish guidelines and standards. The provisions of our regulation are similar to those of the military departments; the uniform depreciation allowance list developed by the military departments as a guide to adjudicating claims is used by the Department; and the policy set by the military departments as to maximum amounts allowable on categories of items such as photographic equipment, paintings, silverware, and major appliances has also been adopted by the Department.

From the August 31, 1964 effective date of the Military Personnel and Civilian Employees' Claims Act of 1964 to December 31, 1968, the joint State/AID/USIA program settled some 1,230 claims in an amount slightly in excess of \$800,000. Although most claims are settled for less than \$1,000, often for only a few hundred dollars, a small percentage of claimants have not received full reimbursement for their losses since they exceeded the \$6,500 limitation. Only 18 claims have been determined to be payable in excess of \$6,500 but for the statutory monetary limitation. One of the 18 claimants has received total reimbursement of \$10,000 through private relief legislation. (Slator C. Blackiston, Jr., P L 90-348, 90th Cong., Oct. 12, 1968.)

Personnel of civilian agencies with claims prior to 1964 could receive ultimate recovery by requesting the Congress to enact private relief legislation. The same has been true for claims after 1964 for amounts in excess of \$6,500. The authority granted by Congress through enactment of the Military Personnel and Civilian Employees' Claims Act of 1964 relieved the Congress of much of the burden associated with processing private relief legislation. A new limitation of \$10,000 applicable to the civilian agencies, with the retroactive provision, would provide further relief from processing private relief bills. It would also permit a more expeditious settlement in those cases where a total loss occurs and the employee is faced with circumstances of extreme hardship. The increase in the ceiling to \$10,000 was made retroactively effective to August 31, 1964 for the military agencies by the 1965 amendment. The proposed legislation would permit application of the \$10,000 ceiling retroactively to this same date for the civilian agencies.

The losses in excess of \$6,500 have resulted primarily from the catastrophic-type loss involving total loss or damage to the employee's personal effects. Most have resulted from hostile activities or abandonment resulting from emergency evacuation in the Middle East, Nigeria, and the Congo within the past 2 years. A few of these total losses occurred during shipment of household effects as a result of vessel wreckage or other severe transportation hazard.

These claims for substantial losses, as is also true with most claims processed, stem from losses incurred in overseas areas, or in conjunction with the movement or storage of personal effects authorized at Government expense for service-directed assignments to, from, or between overseas posts of duty.

The purpose of the Military Personnel and Civilian Employees' Claim Act of 1964 was to extend to other agencies of the Government the authority possessed by the military departments to settle employee claims for loss or damage of personal property when the loss or damage is incident to their Government service. The need for such legislation was clearly recognized. The proposed legislation seeks to provide uniformity of the claims authority among the Government agencies. Although it is recognized that in many cases distinctions will exist between agencies in claims settlement as a result of functions, conditions of service and other factors, uniformity in the basic legislative authority appears most desirable. Policies prescribed by the President under section 3(b)(1) of the Military Personnel and Civilian Employees' Claim Act of 1964, as amended, could resolve procedural and administrative differences among agencies.

Cost and budget data

The additional cost to the United States, if this proposal is enacted, cannot be determined with any degree of accuracy because of the unpredictability of worldwide incidents that cause substantial losses of employee's personal property. Our experience has been similar to that of the military services in that only a small percentage of claims have exceeded the \$6,500 limitation. Of the 18 claims settled or pending since 1964 for the Department of State, Agency for International Development, and U.S. Information Agency, payable in excess of \$6,500 but for the existing limitation, the proposed legislation would involve a maximum expenditure of \$40,000 if enacted; a cost which the Government would also incur if Congress were to consider favorably a request to enact private relief legislation for these same claimants. It should also be mentioned that an increase in the statutory limitation from \$6,500 to \$10,000 would, based on past experience, provide full reimbursement to approximately 70 percent of those claimants who incurred losses in excess of \$6,500.

